

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CT-3075-D

DAVID E. SIMPSON,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
STATE OF NORTH CAROLINA,)	
)	
Defendant.)	

On April 20, 2009, David E. Simpson (“Simpson” or “plaintiff”) filed this action pursuant to 42 U.S.C. § 1983 [D.E. 1]. On April 1, 2010, the court directed Simpson to show cause why the action should not be dismissed for failure to prosecute [D.E. 7]. On April 8, 2010, Simpson timely responded to the court’s order [D.E. 8] and filed a motion to add a party as defendant [D.E. 9]. On July 9, 2010, Simpson filed a motion to amend his complaint [D.E. 11]. On December 15, 2010, Simpson filed a motion to dismiss this action without prejudice, on the ground that he “ha[s] so many case’s [sic] pending in the United States District Court” [D.E. 12].

A plaintiff may dismiss an action voluntarily, without an order of the court, by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1)(A)(i). Otherwise, an action shall not be dismissed on the plaintiff’s request except upon order of the court. See Fed. R. Civ. P. 41(a)(2). Defendant has not filed an answer or a motion for summary judgment. Thus, the court will allow the voluntary dismissal.

Simpson’s motion for dismissal without prejudice [D.E. 12] is ALLOWED. Simpson’s

motions to add a defendant and to amend his complaint [D.E. 9, 11] are DENIED AS MOOT. The Clerk of Court is DIRECTED to close this case.

SO ORDERED. This 28 day of December 2010.


JAMES C. DEVER III
United States District Judge